

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Janelle Miller,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-77-0362**  
**Parcel No. 120/06360-000-000**

On April 24, 2015, the above-captioned appeal came on for a telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Janelle Miller was self-represented. Assistant Polk County Attorney David Hibbard represented the Board of Review. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Janelle Miller, owner of property located at 5021 SW 16th Place, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a split-level dwelling with 1176 square feet of living area and a 480 square-foot attached garage built in 1960. A 336 square-foot deck was added in 2013. The dwelling has an average quality grade (4+05) and above-normal condition. Its site is 0.269-acres.

The real estate was classified residential on the initial assessment of January 1, 2014, and valued at \$145,600, representing \$23,600 in land value and \$122,000 in improvement value. This was a change from the 2013 assessment making it a reassessment year with all grounds of protest available. Miller protested to the Board of Review on the grounds that the assessment was not equitable

compared to like properties in the taxing under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review denied the protest.

Miller then filed her appeal with this Board and urged the same ground. She claims \$135,000, representing \$23,600 in land value and \$111,400 in improvement value is the actual value and fair assessment of the subject property.

Miller identified four properties for equity comparison.

Address	TSFLA	Site-SF	Year Built	Grade	Condition	2014 AV	AV Dwlg PSF
Subject	1176	11,700	1960	4+05	A NML	\$ 145,600	\$ 123.81
5008 SW 16th Place	1176	28,942	1960	4+05	NML	\$ 138,000	\$ 117.35
5030 SW 16th Place	1152	12,350	1961	4+05	A NML	\$ 130,800	\$ 113.54
5010 SW 16th Place	1138	11,484	1960	4+05	A NML	\$ 136,100	\$ 119.60
5006 SW 16th Place	1138	9350	1960	4+05	A NML	\$ 129,800	\$ 114.06

The properties are all split-level dwellings on SW 16th Place in Des Moines. All are similar in age, construction quality, and have attached garages. Most of the properties are in above-normal condition like the subject. Miller's dwelling has the most basement finish (576 square-feet of living quality finish) as compared to the identified properties (432 square-feet to 528 square-feet), which resulted in several thousand dollars of additional cost adjustments in the assessments. Importantly, the Miller's dwelling is the only one with a deck. According to the assessor's cost report, the replacement cost new of the deck is \$5645. Miller testified she spent \$1000 at most, but that amount did not include labor costs. It would appear the larger amount of basement finish and the addition of the deck, resulted in Miller's assessment being higher than neighboring properties.

Moreover, none of the compared properties were recent sales. Ultimately, Miller did not provide the evidence necessary to develop an assessment/sales ratio for an equity analysis. The evidence fails to support her claim of inequitable assessment.

The Board of Review also provided six properties in Miller's neighborhood as equity comparables.

Address	Year Built	TSFLA	Grade	Basement/Finish	Condition	AV	\$ PSF
Subject	1960	1176	4+05	585/576	A NML	\$145,600	\$123.81
5002 SW 17th St	1958	1310	4+05	1248/338	VG	\$144,700	\$110.46
5010 SW 17th St	1964	1123	4+04	1104/780	A NML	\$141,300	\$125.82
5005 SW 16th Pl	1961	1176	4+05	585/576	A NML	\$141,500	\$120.32
5016 SW 16th Pl	1961	1176	4+05	1104/432	A NML	\$142,100	\$120.83
5107 SW 16th Pl	1964	1152	4+05	1104/624	A NML	\$144,000	\$125.00
5004 SW 16th Pl	1961	1140	4+05	1104/432	A NML	\$144,400	\$123.67

The properties are similar in age, construction grade, and condition to the subject property. Comparables #1 and #6 have significantly smaller decks (180 square feet & 84 square feet) than the subject (336 square feet) and the remaining four properties do not have decks. Comparable #3 has a much larger attached garage than the subject property. With the exception of Comparable #3, Miller's attached garage is the same size as one other comparable and larger than the rest of the properties. Miller's property has a smaller basement than most of the comparable properties, but about the average amount of basement finish. Her assessed value on a per-square-foot basis (\$123.81) falls within the range of the comparable properties' assessments (\$110.46 per-square-foot to \$125.82 per-square-foot) and roughly at the median value.

Deputy County Assessor Jim Willett testified on behalf of the Board of Review. Willett reported there were two reasons for the increase in Miller's 2014 assessment. First, since there was a building permit pulled, his office inspected the deck addition to update their property listing information. Willett testified that the deck addition contributed \$4300 to the value of the property and takes into account the cost of labor to build. Second, the inspector noted exterior improvements to the property that warranted an upgrade of the property's condition from normal to above-normal. That change resulted in a \$7800 increase to the valuation of the subject property.

### *Conclusions of Law*

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual

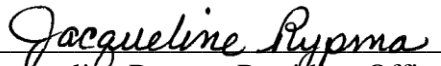
value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

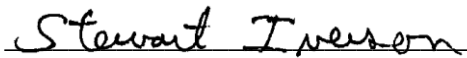
*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

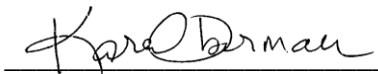
Miller listed four neighborhood properties for equity comparison. None of the properties had recently sold. She did not provide any comparable sales evidence needed to complete the equity analysis contemplated by *Maxwell*. There was no evidence that the assessor failed to apply an assessment method uniformly. Therefore, we find Miller did not prove by a preponderance of the evidence that her property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

THE APPEAL BOARD ORDERS that the January 1, 2014, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 14th day of May, 2015.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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